

Congress of the United States
Washington, DC 20515

December 6, 2018

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The Honorable Ajit V. Pai
Chairman
455 12th Street, Southwest
Washington, DC, 20544

Re: FCC docket "Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992" (MB Docket No. 05-311)

Dear Chairman Pai:

We write to express our deep concern about the harm that could be inflicted in rural communities by decisions made by the Commission in MB Docket No. 05-311. Specifically, we believe the outcome of this proceeding could jeopardize vital funding for our public, educational, or governmental (PEG) stations as well as the ongoing effort to wire our schools and other public buildings for broadband.

As you know, PEG stations provide Americans with dynamic opportunities to connect with each other and their local governments that are not otherwise available. They provide coverage of local government meetings, news from college campuses, commercial-free and locally produced content, and emergency alerts and directives. We are deeply concerned that the outcome of this proposal could jeopardize these important services.

Under the Communications Act, local governments can require as part of cable franchise agreements that cable operators meet demonstrated community needs by setting aside channels for PEG stations. The proposal in this docket would allow operators to deduct from franchise fees paid to PEG stations the value of these channels as well as the value of any in-kind services they provide, including wiring schools for broadband. The resulting reduction in revenue could threaten the very existence of PEG stations and force local governments to choose between funding the stations or other vital services and institutions. Such an outcome is unacceptable.

As the Commission deliberates in this docket, we urge you to take no action that threatens the viability and sustainability of PEG stations that our constituents depend on especially those in rural communities.

Thank you for your attention to this issue.

Sincerely,



PETER WELCH
Member of Congress



CHELLIE PINGREE
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 13, 2018

The Honorable Chellie Pingree
U.S. House of Representatives
2162 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Pingree:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines "franchise fee" to include "any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such." 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms "tax" and "assessment" can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities and those in rural communities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission's review.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai".

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 13, 2018

The Honorable Peter Welch
U.S. House of Representatives
2303 Rayburn House Office Building
Washington, D.C. 20515

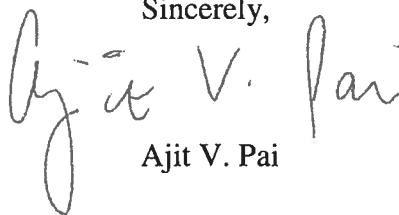
Dear Congressman Welch:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

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Sincerely,



Ajit V. Pai